
Housing Committee

HB 3071

Brief Description: Harmonizing statutes that address the termination of condominiums.

Sponsors: Representatives Goodman, Rodne and Williams.

Brief Summary of Bill

- Applies the termination of condominium policies and procedures of the Washington Condominium Act (WCA) to condominiums built prior to July 1, 1990.

Hearing Date: 1/31/08

Staff: Robyn Dupuis (786-7166).

Background:

The Horizontal Property Regimes Act (HPRA), enacted in 1963, governs the management of all residential condominiums built before July 1, 1990. The Washington Condominium Act (WCA), enacted in 1990, governs those built in Washington after July 1, 1990.

There are a number of specific statutes within the WCA that also apply to condominiums built before July 1, 1990 including statutes that address titles and taxation, applicability of local ordinances, tort and contract liability, lien for assessments and association records and definitions.

The HPRA and the WCA contain different policies and procedures regarding the termination of condominiums for condominiums built before and after July 1, 1990, respectively.

Termination Under the Horizontal Property Regimes Act (HPRA):

Percent Necessary to Terminate: Residential condominiums built before July 1, 1990 may only be terminated through an agreement by all (100 percent) of the condominium owners.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Also, the mortgagees and holders of all liens affecting any of the apartments must also consent that their mortgages and liens be transferred to the percentage of the undivided interest of that apartment owner in the property.

Property Ownership and Interests Post Termination:

- After termination, the property shall be deemed to be owned in common by the apartment owners.
- For each owner, the undivided interest in the property owned in common shall be the percentage of the undivided interest previously owned by each owner in the common areas and facilities.

Termination Under the Washington Condominium Act (WCA):

Percent Necessary to Terminate: Residential condominiums built after July 1, 1990 may be terminated by agreement of 80 percent of the condominium owners (unless the condominium declaration sets forth a greater requirement).

The agreement must contain a description of the manner in which creditors of the association will be paid or provided for.

Property Ownership and Interests Post Termination:

Property Not to be Sold

If the real property is not to be sold following termination, title to all real property vests in the unit owners as tenants in common in proportion to their respective interests**.

Property to be Sold

1. The termination agreement may provide that all common elements and units be sold following termination and, if so, must set forth the minimum terms for the sale.
2. The association may contract for the sale of real property in the condominium. Title to the real property, upon termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has the powers necessary and appropriate to effect the sale. *Until the sale has concluded and proceeds distributed, the association continues to exist with all its previous powers.*
3. The proceeds of any sale of real property, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units and credits of the association as their interests may appear. After all creditors have been paid or provided for, the proceeds or assets may be disbursed to the owners.
4. Proceeds of the sale must be distributed to unit owners and lien holders according to their interests*, in proportion to the respective interests of unit owners**.

Suspension of Right of Partition: The right of partition is suspended if an agreement to sell the property is provided for in the termination agreement. The suspension continues unless and until:

- (a) No binding obligation to sell exists three months after the recording of the termination agreement;
- (b) The binding sale agreement is terminated; or

(c) One year after the termination agreement is recorded.

Rights of Partition

Under Chapter 7.52, when several persons hold and are in possession of real property as tenants in common, an action may be maintained by one or more of them for a partition of that property, according to the respective rights of the persons with interests in the property.

***Interests of unit owners consists of:** The fair market values of their units, limited common elements and common element interests immediately before termination, as determined by one or more independent appraisers selected by the association. The appraisal decision must be disapproved within 30 days after distribution, by unit owners of units to which 25 percent of the votes in the association are allocated, or it becomes final.

****The proportion of any unit owner's interest** to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements.

Summary of Bill:

The WCA Termination of Condominium subsections, RCW 64.34.268 (1) - (7) and (10), which allows for termination of condominiums with 80 percent owner agreement and which includes a number of other policies regarding the sale of properties, valuation of interests, and distribution of assets is included in the list of statutes which also apply to condominiums built before July 1, 1990.

Subject to the rights of mortgagees and lien holders affected, condominium owners in buildings built prior to July 1, 1990 have two choices of how to terminate, sell, value interests, and manage the distribution of proceeds from the condominium which consist of:

- a. **Termination as provided for in the HPRA:** Consent of 100 percent of owners and the ownership and interest policies described in 64.32.150 (1) and (2); or
- b. **Termination as provided for in the WCA:** Consent of 80 percent of owners and the ownership, sales, interest valuation, and suspension of partition policies as described in 64.34.268 (1) - (7) and (10).

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.